

## REMARKS

The specification has been carefully reviewed again and amended to correct minor grammatical errors. No new matter is introduced by this amendment.

Claims 1 to 8 are currently active in the application. The indication that claims 3 to 6 are allowed is noted with appreciation. The indicated allowability of claims 1, 2, 7, and 8 has been withdrawn in view of a newly discovered reference, U.S. Patent No. 5,717,889 to Fox.

By the present paper, minor amendments to the claims have been presented for purposes of improving their form. The Examiner is respectfully requested to reconsider the application in a view of these amendments and the following further discussion.

Claims 1, 2, 7, and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Peddicord et al. (U.S. Patent 6,402,691) in view of Fox (U.S. Patent 5,742,238). This rejection is respectfully traversed.

The present invention is related to a fault monitoring method for a commodity management radio apparatus. The present invention aims to provide a commodity management radio communicating apparatus in which a user of a portable radio communication terminal can check a fault of a radio communication section without help of a maintenance person when a problem takes place in the communication terminal of the commodity management radio communicating apparatus. Structurally, the claimed commodity management radio communication system includes a plurality of Point of Sale (POS) terminals connected to an inventory controller. In addition to this there is a group of radio communication terminals held by monitoring people which transmit to the inventory controller the inventory information like inventory counting or item-checking data. According to the present invention, when a number of retrying times of radio communication between a portable radio communication terminal and the radio communication base station exceeds a predetermined number then a

test of a radio communication section of the portable radio communication terminal automatically takes place. After the test has executed the results, related to the fault portable radio communication terminals, are displayed. It should be noted that the claimed test is executed only after checking that the radio communication between each portable radio communication terminal and the radio communication base station is vacant continuously and after passing a predetermined execution prohibiting time zone.

The patent to Peddicord et al. discloses a system for remote monitoring the medical condition of a number of patients from a centralized location. Peddicord et al. system includes a plurality of remote monitoring units that each has wireless transmission device and a conventional modem for communicating over voice telephone lines. The Examiner states on page 2 of the Office Action that Peddicord et al. teaches a fault monitoring method which "automatically executing a test of a radio communication section in arbitrary portable radio communication terminals when a number of retrying times of radio communication between said arbitrary portable radio communication terminals and said radio communication base station exceeds a predetermined number of times". The Examiner specifically refers to column 9, lines 36 to 54, of Peddicord et al. The Applicant respectfully disagrees and points out to the Examiner that Peddicord et al. shows switching from a telephone line to wireless transmission or vice versa if transmission on telephone line or on wireless device has failed. According to Pddicord et al., the system has an automatic mode, when a monitoring unit first tries the wireless method of communication and, if the wireless method is not available, tries the conventional modem. This is very different from the Applicant's method wherein the claimed system automatically conducts a testing of an arbitrary portable radio communication terminal when transmission fails for a number of times. In Peddicord et al. a switch between a telephone and wireless transmission is performed if one of the methods of transmission fails, but it does not mean that the system recognizes failure of transmission as a malfunction of a communication device and initiates testing of it. However, the Applicant clearly claims

“...automatically executing a test of a radio communication section in an arbitrary portable radio communication terminal when a number of retrying times of radio communication between the arbitrary portable radio communications terminal and said base station exceeds a predetermined number of times;...” (See claim 1)

However, the Examiner states in the Office Action that Peddicord et al. “fails to *specifically* disclose wherein a call time interval of retrying said radio communication base station set longer than an average communication time of said radio-communication between each of said portable radio communication terminals and said radio communication base station in said commodity management system” (emphasis added). The use of the adverb “specifically” is misleading, suggesting that there may be an implicit disclosure of this feature in Peddicord et al. when, in fact, there is not such disclosure or suggestion, either specific or implicit. The Examiner relies on patent to Fox as showing this feature.

The patent to Fox discloses a system for communication between a central controller and items in a factory using infrared light. A system includes microterminals attached to work pieces, containers and workers for tracking the location of work in a factory and for communication with workers to provide instructions for further processing. A central control system, to which infrared transceivers located throughout the factory are wired, communicates with the microterminals via infrared transmissions between the microterminals and transceivers. The Examiner specifically refers to paragraph in column 12, lines 37 to 46 of Fox, wherein the Ethernet interface module is described to be used with a system for providing wireless communication between a central control system and microterminals located on containers for transporting items to be manufactured within a factory. According to Fox, the Ethernet interface can be provided with a number of setable operating parameters. One of them is number of retrying of transmission of messages between the microterminals and the various work station on the local area network. However, the patent to Fox is also silent about showing an automatic execution of a test of a radio communication section in an arbitrary portable radio communication terminals when the number of

retrying times of radio communication between said arbitrary portable radio communication terminals and said radio communication base station exceeds a predetermined number of times, as it is claimed in claim 1 of the present invention. Therefore, the reference to Fox does not make up for the deficiencies of Peddicord et al. The Applicant respectfully submits that the combination of Peddicord et al., directed to a patient monitoring system, and Fox, directed to a system for controlling a factory process, would not result on the claimed invention since none of the references shows automatic execution of a test of a radio communication section in arbitrary portable radio communication terminals when a number of retrying times of radio communication terminals and radio communication base station exceeds a predetermined number of times. Moreover, one skilled in the art would not look to these diverse art references to solve the problem of testing portable radio communication terminals in a commodity (inventory) management system as specifically claimed.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1, 2, 7, and 8 be allowed together with previously allowed claims 3 to 6, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson, P.C.).

Respectfully submitted,



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